

Notice of Allowability

Application No.

09/921,860

Examiner

Nadeem Iqbal

Applicant(s)

WOLF, GREGORY H.

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Nov 9, 2004.
2. ☒ The allowed claim(s) is/are 1-27.
3. ☒ The drawings filed on 01 August 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


NADEEM IQBAL
PRIMARY EXAMINER

REASONS FOR ALLOWANCE

The following is an Examiner's Statement of Reasons for Allowance:

The prior arts of record teaches methods and computer program products which test network performance by defining test schedules including test protocols to be implemented and when the protocols should be executed for a plurality of defined connections on a network. He also teaches that at times specified in the test schedule, the endpoint node pair executes the test protocol and measures the performance of the network connection between the two nodes without requiring any involvement of application software which may or may not be installed on the computer. Chandra et al., (U.S. Patent number 6,397,359) is one such example of prior art. The prior arts of record, however, fails to teach, singly or in combination a method for determining computer network's performance during operation of a software application and further comprises generating from the network traffic data a latency sensitivity metric and a bandwidth sensitivity metric and comparing the two metrics to determine the network performance during the operation of the software application. The subject matter sought to be patented as recited in the claims in this application has practical applications in the field of computer network analysis.

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Application/Control Number: 09/921,860

Page 3

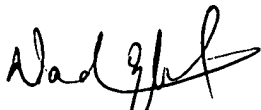
Art Unit: 2114

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadeem Iqbal whose telephone number is (703) 308-5228.

If attempts to reach the Examiner are unsuccessful, Examiner's supervisor Robert W.

Beausoliel can be reached whose telephone number is (703) 305-9713.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

A handwritten signature in black ink, appearing to read 'Nadeem Iqbal', with a stylized flourish at the end.

Nadeem Iqbal
Primary Examiner
Art Unit: 2114